

AMENDED IN SENATE AUGUST 5, 2008

AMENDED IN SENATE JULY 1, 2008

AMENDED IN SENATE JUNE 18, 2008

AMENDED IN SENATE JULY 3, 2007

AMENDED IN SENATE JUNE 27, 2007

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AMENDED IN ASSEMBLY MAY 9, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1634

Introduced by Assembly Member Levine

(Principal coauthors: Senators Negrete McLeod and Padilla)

(Coauthors: Assembly Members Nava and Solorio)

February 23, 2007

An act to amend Sections 30804.7 and 31751.7 of, and to add Sections 30804.8 and 31751.8 to, the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1634, as amended, Levine. Dogs and cats: nonspayed or unneutered: civil penalties.

Existing law regulates spay, neuter, and breeding programs for animals. Existing law requires the owner of a nonspayed or unneutered dog or cat that is impounded by a city or county animal control agency or shelter, society for the prevention of cruelty to animals, or humane society to be fined \$35 on the first occurrence, \$50 on the 2nd occurrence, and \$100 for the 3rd or subsequent occurrence.

This bill would increase the above fines for a nonspayed or unneutered dog to \$50 for the first occurrence, \$100 for the 2nd occurrence, and would require spaying or neutering of the dog at the owner's expense on the 3rd occurrence. The bill would increase the above fines for a nonspayed or unneutered cat to \$50 on the first occurrence and would require spaying or neutering of the cat at the owner's expense on the 2nd occurrence.

This bill would also provide that the owner of a nonspayed or unneutered dog or cat that is the subject of a complaint to a local animal control agency, as specified, may be cited and, if cited, shall pay a civil penalty to the local animal control agency within 30 days. It would require a local animal control agency to waive the civil penalty if, within 14 business days of the citation, the pet's owner presents written proof from a licensed veterinarian that the dog or cat was spayed or neutered.

By increasing the enforcement responsibility of local agencies, this bill would create a state-mandated local program.

~~Existing law, enacted in 1998, relating to animal control, imposed certain state-mandated local programs.~~

~~This bill would prohibit the Controller from releasing a payment to a local agency for costs arising under that 1998 law until the local agency has complied with certain rabies control reporting requirements.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30804.7 of the Food and Agricultural
- 2 Code is amended to read:

1 30804.7. (a) The owner of a nonspayed or unneutered dog that
2 is impounded once by a city or county animal control agency or
3 shelter, society for the prevention of cruelty to animals, or humane
4 society, shall be fined fifty dollars (\$50) on the first occurrence
5 and one hundred dollars (\$100) on the second occurrence. On the
6 third occurrence, the dog shall be spayed or neutered, with the
7 owner paying the cost of the procedure. These fines are for
8 nonspayed or unneutered impounded animals only, and are not in
9 lieu of any fines or impound fees imposed by any individual city,
10 county, public animal control agency or shelter, society for the
11 prevention of cruelty to animals shelter, or humane society shelter.

12 (b) An animal control officer, humane officer, police officer,
13 peace officer, or any agency authorized to enforce the Penal Code
14 may write citations with a civil penalty stated in an amount
15 corresponding to the violation as provided in subdivision (a). The
16 fines shall be paid to the local municipality or public animal control
17 agency or shelter, society for the prevention of cruelty to animals
18 shelter, or humane society shelter. Any funds collected under this
19 section shall be expended for the purpose of humane education,
20 programs for low-cost spaying and neutering of dogs, and any
21 additional costs incurred by the public animal control agency or
22 shelter, society for the prevention of cruelty to animals shelter,
23 humane society shelter, or rescue group in the administration of
24 the requirements of this division.

25 (c) This section applies to each county and cities within each
26 county, regardless of population.

27 (d) No city or county, society for the prevention of cruelty to
28 animals, or humane society is subject to any civil action by the
29 owner of a dog that is spayed or neutered in accordance with this
30 section.

31 SEC. 2. Section 30804.8 is added to the Food and Agricultural
32 Code, to read:

33 30804.8. (a) The owner of a nonspayed or unneutered dog that
34 is the subject of a complaint may be cited and, if cited, shall pay
35 a civil penalty as provided in this section. This civil penalty shall
36 be in addition to any fine, fee, or penalty imposed under any other
37 provision of law or local ordinance.

38 (b) At the time that the citation is issued, the local animal control
39 agency shall provide the owner of the dog with information
40 regarding the availability of spaying and neutering services.

(c) The owner of the dog shall pay the civil penalty to the local animal control agency within 30 business days of the citation. The local animal control agency shall waive the civil penalty if, within 14 business days of the citation, the owner of the dog presents written proof from a licensed veterinarian that the dog was spayed or neutered.

(d) The civil penalties shall be as follows:

(1) On the first occurrence, fifty dollars (\$50).

(2) On the second occurrence for the same dog, one hundred dollars (\$100).

(3) On the third occurrence for the same dog, the spaying or neutering of the dog by order of the local animal control agency, with the owner paying the cost of the procedure.

(e) As used in this section, the following terms apply:

(1) "Complaint" means an oral or written complaint to a local animal control agency that alleges that the dog or the owner of the dog has violated this division, any other provision of state law that relates to dogs, or a local animal control ordinance. "Complaint" also means the observation by an employee or officer of a local animal control agency of behavior by a dog or the owner of a dog that violates this division, any other provision of state law that relates to dogs, or a local animal control ordinance. "Complaint" shall not include an allegation of excessive noise or barking.

(2) "Local animal control agency" means any city or county animal control agency or other entity responsible for enforcing animal-related laws or local animal control ordinances.

(3) "Spay" and "neuter" mean any procedure performed by a duly licensed veterinarian that permanently sterilizes a dog and makes it incapable of reproduction.

(f) This section shall not preclude any city or county from adopting a local ordinance that is more restrictive or imposes higher civil penalties.

SEC. 3. Section 31751.7 of the Food and Agricultural Code is amended to read:

31751.7. (a) The owner of a nonspayed or unneutered cat that is impounded once by a city or county animal control agency or shelter, society for the prevention of cruelty to animals, or humane society, shall be fined fifty dollars (\$50) on the first occurrence. On the second occurrence, the cat shall be spayed or neutered, with the owner paying the cost of the procedure. These fines are

1 for nonspayed or unneutered impounded animals only, and are not
2 in lieu of any fines or impound fees imposed by any individual
3 city, county, public animal control agency or shelter, society for
4 the prevention of cruelty to animals shelter, or humane society
5 shelter.

6 (b) An animal control officer, humane officer, police officer,
7 peace officer, or any agency authorized to enforce the Penal Code
8 may write citations with a civil penalty stated in an amount
9 corresponding to the violation as provided in subdivision (a). The
10 fines shall be paid to the local municipality or public animal control
11 agency or shelter, society for the prevention of cruelty to animals
12 shelter, or humane society shelter. Any funds collected under this
13 section shall be expended for the purpose of humane education,
14 programs for low-cost spaying and neutering of cats, and any
15 additional costs incurred by the animal shelter in the administration
16 of the requirements of this division.

17 (c) Local ordinances concerning the adoption or placement
18 procedures of any public animal control agency or shelter, society
19 for the prevention of cruelty to animals shelter, humane society
20 shelter, or rescue group shall be at least as restrictive as this
21 division.

22 (d) This section applies to each county and cities within each
23 county, regardless of population.

24 (e) No city or county, society for the prevention of cruelty to
25 animals, or humane society is subject to any civil action by the
26 owner of a cat that is spayed or neutered in accordance with this
27 section.

28 SEC. 4. Section 31751.8 is added to the Food and Agricultural
29 Code, to read:

30 31751.8. (a) The owner of a nonspayed or unneutered cat that
31 is the subject of a complaint may be cited and, if cited, shall pay
32 a civil penalty as provided in this section. This civil penalty shall
33 be in addition to any fine, fee, or penalty imposed under any other
34 provision of law or local ordinance.

35 (b) At the time that the citation is issued, the local animal control
36 agency shall provide the owner of the cat with information
37 regarding the availability of spaying and neutering services.

38 (c) The owner of the cat shall pay the civil penalty to the local
39 animal control agency within 30 business days of the citation. The
40 local animal control agency shall waive the civil penalty if, within

1 14 business days of the citation, the owner of the cat presents
2 written proof from a licensed veterinarian that the cat was spayed
3 or neutered.

4 (d) The civil penalties shall be as follows:

5 (1) On the first occurrence, fifty dollars (\$50).

6 (2) On the second occurrence for the same cat, the spaying or
7 neutering of the cat by order of the local animal control agency,
8 with the owner paying the cost of the procedure.

9 (e) As used in this section, the following terms apply:

10 (1) "Complaint" means an oral or written complaint to a local
11 animal control agency that alleges that the cat or the owner of the
12 cat has violated this division, any other provision of state law that
13 relates to cats, or a local animal control ordinance. "Complaint"
14 also means the observation by an employee or officer of a local
15 animal control agency of behavior by a cat or the owner of a cat
16 that violates this division, any other provision of state law that
17 relates to cats, or a local animal control ordinance. "Complaint"
18 shall not include an allegation of excessive noise.

19 (2) "Local animal control agency" means any city or county
20 animal control agency or other entity responsible for enforcing
21 animal-related laws or local animal control ordinances.

22 (3) "Spay" and "neuter" mean any procedure performed by a
23 licensed veterinarian that permanently sterilizes a cat and makes
24 it incapable of reproduction.

25 (f) This section shall not preclude any city or county from
26 adopting a local ordinance that is more restrictive or imposes higher
27 civil penalties.

28 ~~SEC. 5. The Controller shall not release a payment, pursuant~~
29 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
30 ~~2 of the Government Code, to a local agency to reimburse the costs~~
31 ~~arising from Chapter 752 of the Statutes of 1998 until the~~
32 ~~Controller determines that the local agency has complied with the~~
33 ~~requirements of paragraph (4) of subdivision (a) of Section 2606.4~~
34 ~~of Title 17 of the California Code of Regulations.~~

35 ~~In making the determination required by this section, the~~
36 ~~Controller may rely on information provided by the Department~~
37 ~~of Public Health.~~

38 ~~Pursuant to Section 17612 of the Government Code, the~~
39 ~~Legislature declares that this section modifies the reimbursement~~

1 methodology for paying claims arising from Chapter 752 of the
2 Statutes of 1998, but does not suspend that chapter.

3 ~~SEC. 6.~~

4 *SEC. 5.* No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 a local agency or school district has the authority to levy service
7 charges, fees, or assessments sufficient to pay for the program or
8 level of service mandated by this act, within the meaning of Section
9 17556 of the Government Code.